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LETTER DATED 12 JULY 1995 FROM THE PERMANENT REPRESENTATIVE OF INDIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

1. My delegation is given to understand that the Security Council is discussing a draft resolution pertaining to the role of the Security Council on the question of non-proliferation of weapons of mass destruction. We believe that the process of internal consultations has reached an advanced stage and that the Council will soon hold informal consultations to finalize the text.

2. My delegation has learned of these developments with considerable concern since the issues under consideration in the proposed draft resolution are of vital importance to the entire membership of the United Nations. The issues transcend the question of the implications of the proliferation of weapons of mass destruction and impinge directly upon the role of, and relations between, the principal organs of the United Nations as well as what are the obligations deriving from the Treaty on the Non-Proliferation of Nuclear Weapons, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, and the Convention on the Prohibition and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, and to whom they apply. We are, therefore, particularly concerned that the Security Council is not proceeding in this important matter through an open, transparent and inclusive discussion at a time when the Working Group on equitable representation and increase in the membership of the United Nations is seeking greater transparency in decision-making by the Council.

3. The proposed draft resolution raises a host of questions including the following:

(a) Can the Security Council continue to ignore the overwhelming demand for elimination of nuclear weapons, which has been recognized and repeatedly voiced in the General Assembly;

(b) If indeed the Charter of the United Nations envisaged any role for the Security Council on non-proliferation issues, which is doubtful, why has no action been taken on the proliferation of tens of thousands of nuclear weapons since the United Nations was established?

(c) Article 26 of the Charter of the United Nations only authorizes the Security Council, with the assistance of a Military Staff Committee, to formulate plans for a system of regulation of armaments to be presented to the United Nations Member States, that is, the General Assembly and not to legislate unilaterally on it;

(d) The Biological and Chemical Weapons Conventions aim to eliminate respective categories of weapons of mass destruction entirely. The Non-Proliferation Treaty, on the other hand, seeks to legitimize the possession and production of nuclear weapons by five countries. Would it not be logically inconsistent and legally untenable to equate them?

(e) None of the three treaties mentioned in the draft resolution - the Non-Proliferation Treaty and the Biological and Chemical Weapons Conventions - enjoy universal adherence among the United Nations membership. Since some Member States of the United Nations are not States parties to the treaties and the implementation of those treaties is the sole responsibility of the State parties, on whose behalf will the Security Council "affirm" its support for the provisions of these treaties?

(f) Is the Security Council's concern on matters of proliferation to be limited to horizontal proliferation alone?

(g) Is the continued existence of nuclear weapons or retention of nuclear weapons by the five nuclear-weapon States not considered a proliferation risk that threatens international peace and security?

(h) Can a role for the Secretary-General be envisaged to report to the Council annually on the status of efforts to ensure the prevention of the proliferation of weapons of mass destruction without undermining the role of decision-making authorities provided for in the relevant international treaties and conventions, that is, the Board of Governors of the International Atomic Energy Agency (IAEA) and the Executive Council of the Chemical Weapons Convention? Will the Secretary-General's reports also address specifically and directly the status of non-proliferation in the nuclear-weapon States?

4. It is India's considered view that before the Security Council embarks on any action to formally give itself a "role in the non-proliferation of weapons of mass destruction", all substantive, legal and institutional issues, including the role of specific treaty bodies, must be addressed and resolved through an open and transparent debate among the full membership of the United Nations.

5. In view of the importance of the subject, may I request that the present letter be circulated as a document of the Security Council.

(Signed) Prakash SHAH
Permanent Representative of India